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Attorneys for Defendant  
JOHN JACOB OLIVAS

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN JACOB OLIVAS,

Defendant.

Case No. ED CR 18-00231-JGB

**JOHN JACOB OLIVAS' NOTICE OF  
MOTION AND MOTION *IN LIMINE*  
TO PRECLUDE VOUCHING**

**Hearing Date:** August 23, 2021

**Hearing Time:** 2:00 p.m.

**Location:** Courtroom of the Hon. Jesus  
G. Bernal

PLEASE TAKE NOTICE THAT defendant, John Jacob Olivas, by and through  
his counsel of record, Deputy Federal Public Defenders Angela C. C. Viramontes and  
Craig A. Harbaugh, moves this Honorable Court for an order precluding any vouching  
by the government at trial.

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This motion is based on the attached memorandum of points and authorities, any declarations of counsel and any exhibits attached hereto, all files and records in this case, and such further information as may be provided to the Court with respect to this motion.

Respectfully submitted,

CUAUHTEMOC ORTEGA  
Federal Public Defender

DATED: July 19, 2021

By /s/ *Angela C. C. Viramontes*

ANGELA C. C. VIRAMONTES  
CRAIG A. HARBAUGH  
Deputy Federal Public Defenders  
Attorneys for JOHN JACOB OLIVAS

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION AND ARGUMENT

Because there is absolutely no physical evidence supporting that a sexual assault occurred, this case will clearly come down to the credibility of government witnesses versus the credibility of the defense witnesses. As such, this Court should be preclude any vouching by the government at trial. *See, e.g., U.S. v. Combs*, 379 F.3d 564, 576 (9th Cir.2004) (“[V]ouching is especially problematic in cases where the credibility of the witnesses is crucial.” (quoting *U.S. v. Necochea*, 986 F.2d 1273, 1276 (9th Cir.1993)); *see also U.S. v. Smith*, 962 F. 2d 923, 936 (9th Cir. 1992) (“Where the determination of a defendant's guilt or innocence hinges almost entirely on the credibility of a key prosecution witness, allowing a conviction to be obtained by a prosecutor's deliberately vouching for that witness on behalf of the court would pose a clear threat to the integrity of judicial proceedings.”)).

Specifically, the prosecutor should refrain from using the words “I believe” and “I do not believe” *U.S. v. Weatherspoon*, 410 F. 3d 1142, 1148 (9th Cir. 2005), “told the truth” *Id.*, “we know” *U.S. v. Younger*, 398 F.3d 1179, 1191 (9th Cir. 2005), or otherwise “vouch[ing] for the credibility of its witnesses, either by putting its own prestige behind the witness, or by indicating that extrinsic information not presented in court supports the witness' testimony. . . .” *U.S. v. Simtob*, 901 F.2d 799, 805 (9th Cir.1990).

### II. CONCLUSION

For the reasons stated above, Mr. Olivas requests that the Court preclude any vouching by the government at trial.

Respectfully submitted,

CUAUHTEMOC ORTEGA  
Federal Public Defender

DATED: July 19, 2021

By /s/ Angela C. C. Viramontes

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CRAIG A. HARBAUGH  
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